



Via ECF

Hon. Sarah L. Cave
United States Magistrate Judge
United States District Court-SDNY
500 Pearl Street, Courtroom 18A
New York, NY 10007

Re: Sydney Hyman v. Andrew Fabbri and Jessica Cohen
Case No. 19-civ. 10506 (AT)
Briefing Schedule, Motion to Set Reasonable Expert Witness Deposition Fee

December 14, 2021

Dear Honorable Judge Cave:

We represent the Defendants, Andrew Fabbri (“Fabbri”) and Jessica Cohen (“Cohen”)(“the Defendants”), in the above-referenced matter. We write to request that the Court set a briefing schedule to determine a Reasonable Expert Witness Deposition Fee for the Plaintiff’s Patent Attorney Expert, D.J. Healey (“Healey”).

Plaintiff’s Counsel has advised that this expert is entitled to \$1175 per hour for deposition. While this expert is a patent attorney, the undersigned’s research on average hourly rate for such professionals in the City of New York in 2021 is nowhere near this amount. Furthermore, the Defendants believe that this rate is patently unreasonable.

Please note that the undersigned has attempted to negotiate this issue in good faith with Plaintiff’s Counsel, who has stood firm on this hourly rate. Therefore, it is necessary for the Court to set the reasonable fee.

Healey’s deposition is scheduled to occur on January 25, 2021.

Very Truly Yours,

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Defendant's request (ECF No. 122) for the Court to determine the reasonableness of the fee of Plaintiff's expert D.J. Healey, whose deposition has not yet taken place, is DENIED WITHOUT PREJUDICE. "[I]t is well-settled that parties seeking court intervention to determine a reasonable fee for an expert deposition should do so after the deposition, not before it has taken place." *Ajasin v. Ortiz*, No. 19 Civ. 6814 (RA) (JLC), 2021 WL 1437551, at *1 (S.D.N.Y. Apr. 16, 2021). Defendant may renew his request, if necessary, after Mr. Healey's deposition.

The Clerk of Court is respectfully directed to close ECF No. 122.

SO ORDERED 12/15/2021


SARAH L. CAVE
United States Magistrate Judge